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September 13, 1993

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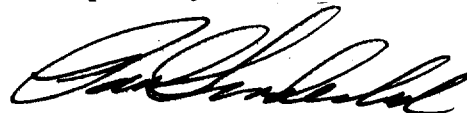
William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: MM Docket No. 93-106
NOTICE OF EX PARTE COMMUNICATION

Dear Mr. Caton:

I am writing pursuant to Section 1.1206 of the Commission's Rules to advise the Commission that today, Wayne Coy, Jr., counsel to the National ITFS Association ("NIA"), Todd D. Gray, counsel to American Council on Education, American Association of Community Colleges, Alliance for Higher Education, Arizona Board of Regents for Benefit of the University of Arizona, Board of Regents of the University of Wisconsin System, Iowa Public Broadcasting Board, Regents of the University of New Mexico, Board of Education of the City of Albuquerque, South Carolina Educational Television Commission, State of Wisconsin - Educational Communications Board, and the University of Maine System (collectively, the "ITFS Parties"), Andrew Kreig, Vice President of the Wireless Cable Association International, Inc. ("WCA") and Dawn G. Alexander and the undersigned, counsel to WCA, met with Chief of Staff Brian F. Fontes, Lisa Smith, Legal Assistant to Commissioner Barrett, and Anne Lucey of the Mass Media Bureau to discuss the previously-submitted compromise agreed to among NIA, the ITFS Parties and WCA concerning the above-referenced proceeding. The substance of the discussion is set forth in the attached written summary of that compromise.

Respectfully submitted,



Paul J. Sinderbrand

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cc: Brian F. Fontes
Lisa Smith
Wayne Coy, Jr.
Todd D. Gray

COMPROMISE ON CHANNEL LOADING

Pending the technical and economic viability of digital compression technology, the Commission will permit channel loading and system-wide scheduling on the following basis:

1. Each ITFS licensee will be required to preserve for immediate use or ready recapture at least forty hours per week per licensed channel for the transmission of ITFS programming (including the right to recapture simultaneous use of airtime on the number of the channels for which it is licensed). These rights cannot be abridged by contract and any contracts that do so are superseded. There will be no reduction whatsoever in the amount of mandatory ITFS programming from the current rules.
2. Each ITFS licensee will be required to actually transmit at least twenty hours (twelve hours for the first two years of operation) of ITFS programming each week for each channel licensed to it. Each ITFS licensee will be permitted to load programming satisfying this requirement on less than all of the channels for which it is licensed. The minimum programming requirement (*i.e.* hours 1-20) must be met by transmissions on the channel(s) licensed to the ITFS licensee.
3. In order to promote realization of the benefits of system-wide planning of program schedules, ITFS licensees that choose to do so may agree to the transmission over any MDS or ITFS channel in the system programming satisfying the minimum recapture requirements (*i.e.* hours 21-40). By carefully coordinating their programming schedules as part of a system, the ITFS licensees in an area could create full time educational channels and provide their wireless cable partner with the maximum number of full time commercial programming channels (thus obviating the need for channel mapping technology), while still preserving the ability of the ITFS licensees to transmit multiple programs simultaneously.
4. Leasing and scheduling by ITFS applicants/licensees consistent with the above will establish that the applicant/licensee needs its channel capacity and entitle the applicant/licensee to an initial or renewed license. No demerit for channel loading or system-wide scheduling will be imposed under the Commission's system for selecting from among mutually-exclusive applicants, nor will channel loading or system-wide scheduling have adverse consequences for a renewal application.
5. Similarly, leasing and scheduling by ITFS applicants/licensees consistent with the above will not serve as a basis for future efforts to seek reallocation of non-loaded ITFS spectrum for commercial use, and the parties to the compromise agree not to seek any such reallocation.